

SUBCHAPTER I : LAKE CROOK WATERSHED

§284.161. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Commission - The Texas Water Commission.

Lake Crook Watershed - The areas in Lamar County from which surface waters drain into Lake Crook including the areas drained by Little Pine Creek, Pine Creek, South Branch, and their tributaries.

Licensing authority - The Paris-Lamar County Health Department acting under the jurisdiction of the Commissioner's Court of Lamar County.

Organized disposal system - Any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit issued by the Texas Water Commission.

Private sewage facilities - Septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems, and methods used for disposal of sewage other than by organized disposal systems.

Septic tank - A vented, watertight tank which serves as a sedimentation and sludge digestion chamber which is placed between the house sewer and the soil absorption field.

Septic tank system - A system for disposing of sewage through soil absorption and consisting of the following components: the house sewer; the septic tank; and soil absorption field.

Sewage - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

Soil absorption field - That part of a septic tank system consisting of drainage tiles and surrounding permeable soil used for the subsurface disposal of septic tank effluent.

Standards - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

Subdivision -

(A) A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(B) any four or more contiguous lots or tracts, each of which is less than one acre in size.

§284.162. Sewerage Facilities.

No sewerage facilities of any kind may be located within the Lake Crook Watershed except for those of organized disposal systems operating under a valid permit issued by the commission or private

sewage facilities licensed by the licensing authority in accordance with this subchapter or licensed by the licensing authority prior to the effective date of this subchapter.

§284.163. Delegation of Licensing Function.

The commission hereby designates the Paris-Lamar County Health Department to perform the licensing function and the administration of the licensing system, including all appropriate powers of inspection, collecting of fees, testing, and enforcement. Any person owning private sewage disposal facilities within the Lake Crook Watershed shall permit employees of the licensing authority to make such reasonable inspection of sewage disposal facilities as may be required to determine whether these facilities comply with this subchapter.

§284.164. Licenses for Private Sewage Facilities in the Lake Crook Watershed.

(a) No private sewage facility, or part thereof, may be installed or used in the Lake Crook Watershed unless a license has been issued by the licensing authority in accordance with this subchapter or licensed by the licensing authority prior to the effective date of this subchapter.

(b) Except as authorized in subsection (d) of this section, a subdivision lot which lies within the Lake Crook Watershed and which has a minimum lot size of less than one acre must be connected to an organized disposal system operating under a valid permit issued by the commission and may not be served by a private sewage facility. A subdivision lot which lies within the Lake Crook Watershed and which has a minimum lot size of at least one acre may be served by private sewage facilities provided the licensing authority finds after appropriate tests and inspections that the nature of the soils, the drainage of the area, and other pertinent factors will permit the use of the facilities. A subdivision lot lying partially within the Lake Crook Watershed is not required to be licensed if the private sewage facilities are located on the tract so as to fall outside the boundaries of the watershed.

(c) A lot or tract located within the Lake Crook Watershed which is not part of a subdivision may be served by private sewage facilities located within the Lake Crook Watershed, provided the lot or tract in question contains at least 15,000 square feet and the licensing authority finds after appropriate inspections and tests that the nature of the soils, the drainage of the area, and other pertinent factors will permit the use of the facilities. In making such determination, the licensing authority shall consider the location of the property, the proposed use of the property, the proposed location of the private sewage facilities on the property, the proposed loading of the facilities, the probable density of development in the area, and other relevant factors.

(d) The licensing authority may issue a temporary license for a private sewage facility for a period not to exceed two years under circumstances otherwise prohibited herein if it finds that the installation of such private facilities for such a period will not cause pollution or injury to public health. The licensing authority may grant an extension of a license issued in accordance with this subsection for a period of up to two years if it finds that continued operation of the private sewage facilities will not cause pollution or injury to public health.

(e) All private sewage facilities to be installed or constructed after the effective date of this subchapter must conform to the latest edition of the "Standards".

§284.165. Procedure for Obtaining Approval for Planned Subdivisions Utilizing Private Sewage Facilities.

Any developer or other person interested in creating a subdivision using private sewage facilities for disposal of sewage shall obtain the licensing authority's prior approval for such facilities. An application for such approval shall be filed with the licensing authority and shall set forth the name and address of the person making it, the address or location of the subdivision, and a map or plat showing boundary lines of the subdivision and of the lots within the subdivision, and such soil percolation test results and such other data as may be necessary to permit the determination of the matters required by §284.164(b) of this title (relating to Licenses for Private Sewage Facilities in the Lake Crook Watershed). All soil percolation tests must be certified by a registered professional engineer, registered sanitarian, or soil testing laboratory approved by the licensing authority, and the licensing authority shall be given an opportunity to witness the tests of the soil as they are conducted. The licensing authority shall examine the application and make such additional inspections and tests as the authority shall consider necessary. A copy of the licensing authority's written recommendation shall be furnished the applicant. If the licensing authority finds that the subdivision has a minimum lot size of at least one acre and that the use of private sewage facilities would be suitable for private sewage facility development and the remainder is not suitable, it may specify those lots which are found suitable and those which are not found suitable. The licensing authority's approval of a subdivision, or a part thereof, for private sewage facilities shall not constitute a license for such facilities within the subdivision but shall be a prerequisite to the filing of an application for a license within a subdivision, and all facilities installed within the subdivision must be licensed in the manner provided in this subchapter.

§284.166. Licensing Procedure; Fees.

The following procedures shall govern the issuance of licenses for private sewage facilities within the Lake Crook Watershed.

(1) Application forms may be obtained from the offices of the county judge of Lamar County, or from the licensing authority. The form of the application shall be specified by the licensing authority. In order to initiate action on an application for a license, the completed application must be filed with the licensing authority. The application shall include the name and address of the person making the application, the address or location of the property on which the facilities are to be built, the legal description and the dimensions of the property, the proposed use of the property including a description of the structures proposed to be served, the plans for the facilities, a plot plan showing the location of the facilities in relation to boundary lines of the lot, the proposed loading of the facilities, and the applicant's certificate that the facilities are designed in accordance with requirements and directives of the Texas Department of Health, where applicable. If the applicant proposes to install a septic tank system, he shall certify that the system is designed in accordance with the latest standards set out by the Texas Department of Health. If the property involved is not part of a recorded subdivision, the application shall be accompanied by a map or aerial photograph of sufficient detail to

clearly locate the land on which the facilities will be constructed, with the location of the facilities shown thereon.

(2) Within 30 days after receipt of the application, the licensing authority will perform such inspections and tests as it may deem necessary, which may include percolation tests as prescribed in the latest standards of the Texas Department of Health, a site inspection, and other tests and inspections as the licensing authority may consider appropriate. If the licensing authority approves the application, it shall so notify the applicant. If the application is approved, the private sewage facilities may be constructed in accordance with the plans submitted with the application. If the application is disapproved as submitted, but the licensing authority is of the opinion that a facility of a different type or design may be constructed on the property, it shall advise the applicant in writing of the necessary changes.

(3) All private sewage facilities shall be constructed in accordance with the plans approved by the licensing authority, and any deviation from the plans must be approved by the licensing authority. The construction of the facilities shall be subject to the inspection by the licensing authority at all reasonable times and upon a final inspection to insure compliance with this subchapter. The license shall be issued to the applicant by the licensing authority when all requirements have been met.

(4) The licensing authority may require the payment of reasonable license fees by the applicant for a license, including fees for periodic renewal of a license. The amount of the fees shall not exceed the reasonable cost of performing the licensing function and administering the licensing system. The fee schedule will be in accordance with §284.174 of this title (relating to Fee Schedule).

§284.167. Term of License.

Licenses for private sewage facilities issued under this subchapter other than temporary licenses issued pursuant to §284.164(d) of this title (relating to Licenses for Private Sewage Facilities in the Lake Crook Watershed) shall be effective for a term of 10 years. Licenses shall be renewed for successive terms of 10 years if the licensing authority finds that the lot or tract in question may continue to be served by the facilities without causing pollution which may directly or indirectly injure public health. Any license issued under this subchapter shall automatically terminate if there is a subdivision or resubdivision of the property served by the private sewage facilities, or if the property is used for a purpose other than that described in the license, or if the loading of the facilities is increased beyond that stated in the license. If the licensing authority determines to amend, revoke, or suspend the license for reasons other than those set forth in this section, a hearing will be afforded to the license holder before the action is taken.

§284.168. Operation and Maintenance.

Private sewage facilities licensed under this subchapter shall be operated and maintained in accordance with the latest standards set out by the Texas Department of Health. Maintenance and servicing of all private sewage facilities shall be performed by the licensing authority or by servicing organizations approved by the licensing authority. All wastes removed from the facilities must be hauled to an organized disposal system for final disposal. Policies for acceptance of all sewage, sludge,

or other waste will be established by the owner of the organized disposal system receiving the wastes. All facilities licensed under this subchapter shall be subject to inspection by the authority at all reasonable times for the purpose of determining compliance with the terms of the license and this subchapter.

§284.169. Existing Sewage Disposal Facilities and Existing Subdivisions.

(a) Private sewage facilities existing within the Lake Crook Watershed as of October 15, 1971, are required to obtain a conditional license (as stated herein). This conditional license shall automatically terminate if the facility is changed, the loading on the facility is significantly increased from that existing on October 15, 1971, or there is a subdivision or resubdivision of the property served by the facilities. The minimum lot size required by this subchapter does not apply to those subdivisions which have been platted and properly recorded prior to October 15, 1971. Tracts of land of less than 15,000 square feet in size as of October 15, 1971, and which are located in a platted subdivision are also not affected by the minimum lot size requirements of this subchapter. Any license issued under the authority of this subsection shall be conditional and shall be for a period not to exceed five years. The licensing authority shall grant an extension of a license issued in accordance with this subsection unless it finds that continued operation of the private sewage facilities will cause pollution or injury to public health.

(b) If the licensing authority finds after investigation that certain areas of land pose a threat to the quality of the waters in the lake to be exempt from the provisions of this subchapter, a conditional license will not be issued. Such areas, whether they are platted or not, or whether they have come into being before or after October 15, 1971, expressly come under the terms of this subchapter.

§284.170. Exceptions.

It is the intention of the commission that this subchapter shall be strictly enforced. It is recognized, however, that some situations may arise whereby the strict and literal enforcement of the terms of this subchapter would impose undue hardships and would not be necessary to protect and enhance the quality of the waters in the lake. It is the commission's intention that exceptions only be granted in those circumstances where the granting of an exception would not pose potential harm to the quality of the waters in the lake. In the event a person desires to be granted an exception to the terms of this subchapter, an application for each exception shall be filed with the licensing authority. This application shall set out the exact particulars of the exception requested and confirm all data which would substantiate a finding that an exception is warranted. The licensing authority will review all such requests and issue a statement which either grants or denies the application. This statement shall set out the reason for the decision of the licensing authority.

§284.171. Terms and Conditions of Appeal.

(a) The commission intends that any disputes concerning the application of these sections to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met.

(1) All of the appropriate steps required of the aggrieved person by the terms and conditions of this subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the commission who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

§284.172. Enforcement of this Subchapter.

(a) Criminal penalty, Texas Water Code, §26.214.

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this subsection is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this subsection is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

§284.173. Severability.

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this subchapter which can be given effect without the invalid provisions or application, and to this end the provisions of this subchapter are declared severable.

§284.174. Fee Schedule.

The licensing authority shall establish a fee schedule for the private sewage facilities regulatory program within the Lake Crook watershed and maintain a copy of such fee schedule at the Paris-Lamar County Health Department offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the licensing authority and may, subject to applicable laws, be amended by the licensing authority from time to time.